

DEVELOPMENT MANAGEMENT COMMITTEE REPORT – 27 April 2016

Reference Number	E/15/0282/ENF
Proposal	Unauthorised insertion of 2 no. windows in rear elevation of laundrette and unauthorised installation of flue
Location	2-2A Rhodes Avenue Bishops Stortford CM23 3JL
Parish	Bishops Stortford Town Council
Ward	Bishops Stortford - Central

RECOMMENDATION

That enforcement action be authorised as set out at the end of this report.

1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract and is located within the built up area of Bishop's Stortford surrounded by residential dwellings on the north side of Rhodes Avenue and east side of Zambesi Road. The rear wall of the building, which is occupied by a laundrette, directly abuts the rear garden of the residential property at number 4 Zambesi Road.
- 1.2 In August 2015 a concern was expressed to the Council that two windows had been inserted in the rear elevation of the commercial unit overlooking the rear garden of number 4 Zambesi Road, having replaced a modest grilled opening.
- 1.3 On visiting the site Officers were able to photograph the new development and these photographs will be available at the committee meeting. It was also noted that the flue at the site appeared to have been replaced without the benefit of planning permission. Permission was granted at the end of 2005 for the replacement of a condemned extractor, under application ref: 3/05/1197/FP. However, photographs of the property confirm that the current flue is different to that granted planning permission and is therefore unauthorised.
- 1.4 The owners were advised that planning permission would be required for the insertion of the new windows and the flue, and that overlooking issues and impact on neighbour amenity would be a consideration of any such application.
- 1.5 Although invited to submit an application for full permission or pre-application advice on several occasions, the owners declined and have simply attached opaque film on the inside, and a crude bar fixing across the outside, of the windows.

2.0 Planning History

2.1 The most relevant and up to date planning history for the site can be summarised as follow:-

3/14/1729/FP	Partial demolition of shop 2a, replacement of shop fronts and the erection of 2no 1 bedroomed flats to first floor	Refused Appeal Dismissed
3/14/0839/FP	Partial demolition of shop 2a, replacement of shop fronts and the erection of 2no 1 bedroomed flats to first floor	Refused
3/05/1197/FP	Replacement of condemned extractor. Retrospective application	Approved with Conditions
3/98/0690/FP	A1 to A3 opening to 11.30PM	Refused Appeal Dismissed
3/75/0917	Single storey side extension to launderette for use as retail shop	Refused Allowed on Appeal
3/75/0492	Single storey extension for storage	Refused

3.0 Policy

3.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
Overlooking and amenity of the rear gardens of 4 and 6 Zambesi Road	Section 7	ENV1

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

4.0 Consideration of Relevant Issues

4.1 In refusing the applications 3/14/1729/FP and 3/14/0839/FP, the Council noted that the site has a very close relationship with the boundaries of 1b Rhodes Avenue and 4 Zambesi Road and that, because of this close

relationship, development on the site has the potential to impact on the amenity of neighbouring properties.

- 4.2 In this case, the insertion of two windows on what is effectively the common boundary between the two properties results in a perception of being overlooked by the commercial unit, and has the potential to result in direct overlooking if the windows were to be refitted with clear glass at any time in the future. Furthermore, whilst they are currently fixed shut by a metal bar attachment, it would clearly be possible for them to be made openable in the future and this may result in fumes, noise and disturbance further impacting on the residential amenities of the occupier of number 4 Zambesi Road.
- 4.3 In the absence of a planning permission, with relevant conditions to control these matters, Officers consider that the development is unacceptable in terms of residential amenity and enforcement action is necessary to safeguard the amenities of the adjoining residents and to prevent the development becoming lawful through the passage of time.
- 4.4 The unauthorised flue at the retail unit 2a 'The Sweet Life' (which is within the same ownership) is considered to have a negative visual impact on both the unit itself and on adjoining residential properties. Again, without suitable conditions, this also has the potential to result in an adverse impact on the adjoining residents through noise, fumes and/or smell. Enforcement action is also therefore considered necessary in order to control this element of the development.

5.0 Recommendation

- 5.1 For the above reasons it is recommended that the Head of Planning and Building Control, in consultation with the Head of Democratic and Legal services, and other Officers as appropriate, be authorised to take enforcement action under section 172 of the Town and Country Planning Act 1990 and any further steps as may be required to secure the removal of the unauthorised windows and flue.

Period for Compliance: 2 Months

Reasons why it is expedient to issue an Enforcement Notice:

The unauthorised windows, by reason of their siting, result in an adverse impact on the amenities of the adjoining residential property by reason of a perception of overlooking. Furthermore, without necessary and relevant planning conditions, both the

windows and the unauthorised flue have the potential to result in noise, fumes, smell and/or disturbance to the detriment of the residential amenity of the occupiers of that adjoining property. The developments are thereby contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007 and contrary to Section 7 of the National Planning Policy Framework.